

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
ECKHART, et al., : Docket #1:20-cv-05593-
: RA-GWG

Plaintiffs, :
- against - :
FOX NEWS NETWORK, LLC, et al., : New York, New York
September 22, 2021
Defendants. :
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE GABRIEL W. GORENSTEIN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-Direct</u>	<u>Re-Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

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THE CLERK: This is a conference in the matter
of Eckhart versus Fox News Network. Counsel, state your
names for the record, please, starting with plaintiff.

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MR. MICHAEL WILLEMIN: Good morning, Your Honor,
this is Michael Willemin and Renan Varghese for plaintiff,
Jennifer Eckhart.

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MS. KATHLEEN MCKENNA: Good morning, Your Honor,
this is Kathleen McKenna and Danielle Moss of Proskauer
Rose LLP for the defendant, Fox News Network, LLC.

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MS. CATHERINE FOTI: Good morning, Your Honor,
this is Catherine Foti and Douglas Chalke from Morvillo,
Abramowitz, Grand, Iason, & Anello, P.C., for defendant,
Ed Henry.

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HONORABLE GABRIEL W. GORENSTEIN (THE COURT):
Okay. Welcome, everyone. First, this is being recorded,
no rebroadcast is permitted or any dissemination of the
recording. Also, anyone not speaking should keep
themselves on mute.

20

I have here a proposed case management plan and
scheduling order, in principle, the dates are fine. I had
some questions, the first being the expert discovery
schedule which is paragraph 3(e). It says that expert
disclosures will be made on May 31st and depositions will
take place on June 30th. I guess the part that was

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2 confusing to me is the theory that everyone is making
3 simultaneous disclosures, which doesn't really make sense.
4 Normally the way I do this is anyone who is making their
5 own disclosure to support their case does it on a certain
6 date, and any, you know, rebuttal to that, usually from
7 the defendant, comes on another date, and then there's
8 another date for the depositions to be taken. So was there
9 some other vision or did parties not think about it the
10 way I'm thinking about it?

11 MR. WILLEMIN: Your Honor, this is Michael
12 Willemin, I think Your Honor's point is well taken. I
13 believe, unless I'm corrected somehow by defense counsel,
14 that that is an oversight. I think we should, from my
15 perspective, use the end of June date as the rebuttal
16 report date and the end of July as a date for depositions,
17 that would be my proposal.

18 MS. MCKENNA: This is Ms. McKenna, Your Honor.
19 Yeah, Judge, I agree with Mr. Willemin and thank you for
20 catching the parties' oversight there.

21 THE COURT: All right, so I'll change those
22 dates --

23 MS. FOTI: Sorry, Your Honor, I wanted to put on
24 the record it's fine with Mr. Henry, as well, I agree, it
25 was an oversight, thank you.

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2 THE COURT: So we'll add that date and move
3 summary, I'm not putting in a date for summary judgment, I
4 don't like putting in time periods, so the summary
5 judgment date would be mid-September.

6 The other, I made some minor changes to
7 paragraph 8 that you can read when I issue it relating to
8 my requirements. On 7 I'm telling the parties to file a
9 letter on ECF as soon as both sides are prepared to
10 participate in a settlement conference.

11 Other than that, I have no agenda for today, but
12 I'm happy to hear from anyone who may have an agenda. I
13 would otherwise just issue the order as I described it.
14 Anything from the plaintiff's side that you think we
15 should do today?

16 MR. WILLEMIN: No, Your Honor.

17 THE COURT: Ms. McKenna, anything?

18 MS. MCKENNA: Only one mechanical thing, Your
19 Honor. The parties have agreed that defendants' answer to
20 the third amended complaint will be due Monday, October
21 11th, and I think that probably needs to be so ordered by
22 you, Your Honor. So if you if you want us to submit a
23 stipulation I think we can, otherwise we're happy to take
24 it on the record, as you'd prefer.

25 THE COURT: I'm happy to agree to it on the

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2 record if the parties have agreed to it, and if you want
3 to do it otherwise you can follow paragraph 20 of my
4 individual practices. But I'm satisfied with it being on
5 the record.

6 Anything else from you, Ms. McKenna?

7 MS. MCKENNA: No, Your Honor, thank you.

8 THE COURT: Ms. Foti, anything else we need to
9 do today?

10 MS. FOTI: No, Your Honor, we agree, just in
11 terms of the extension for the answer, it was as to both
12 defendants. So thank you, Your Honor.

13 THE COURT: Okay. All right, thank you,
14 everyone, good-bye.

15 (Whereupon, the matter is adjourned.)

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3 C E R T I F I C A T E

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5 I, Carole Ludwig, certify that the foregoing
6 transcript of proceedings in the case of Eckhart et al v.
7 Fox News Network, LLC et al, Docket #20-cv-05593-RA-GWG,
8 was prepared using digital transcription software and is a
9 true and accurate record of the proceedings.

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Signature Carole Ludwig

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Carole Ludwig

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Date: October 19, 2021

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